

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ELSMERE PARK CLUB, L.P., a Delaware limited partnership,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-1321-SLR
)	
TOWN OF ELSMERE, a Delaware municipal corporation,)	
ELLIS BLOMQUIST, EUGENE BONEKER, and JOHN GILES,)	
)	Jury Trial Demanded
Defendants.)	

**PLAINTIFF'S OPPOSITION
TO DEFENDANTS' MOTION TO STRIKE**

Plaintiff Elsmere Park Club, L.P. ("Plaintiff") submits this Opposition to Defendants' Motion to Strike (D.I. 106).

1. Contrary to their assertions, Defendants' Reply (concerning their Motion to Extend Deadlines) (D.I. 101) contained new information, as set forth in Plaintiff's Motion for Leave to File a Sur-Reply (D.I. 104).¹

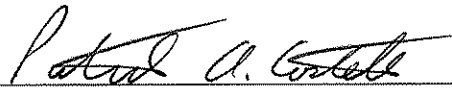
2. Plaintiff inadvertently filed its Sur-Reply (D.I. 105) immediately after filing Plaintiff's Motion for Leave. The Court's case manager advised Plaintiff that withdrawing the Sur-Reply was unnecessary.

3. For the reasons set forth in Plaintiff's Motion for Leave to File a Sur-Reply, Plaintiff's Motion should be granted and the Motion to Strike should be denied.

¹ The new information in the Reply included Defendants' statement in their Reply that they were then evaluating their "need" for an expert. This was new because previously Defendants had stated that they had retained an expert but did not yet have that expert's report. In addition, in their Reply, the Defendants indicated for the first time that they had previously asked for an extension of the expert report deadline; in fact, they did not ask for an extension until one day before the deadline for submitting the report.

Dated: February 28, 2006

KLEHR, HARRISON, HARVEY,
BRANZBURG & ELLERS LLP

By: 
David S. Eagle, (Bar No. 3387)
Douglas F. Schleicher, *pro hac vice*
Patrick A. Costello (Bar No. 4535)
919 Market Street, Suite 1000
Wilmington, DE 19801-3062
(302) 426-1189 (Telephone)
(302) 426-9193 (Fax)
deagle@klehr.com
pcostello@klehr.com
Attorneys for Plaintiff